

In the High Court of Punjab and Haryana at Chandigarh

RSA No.467 of 2016(O&M)

Date of Decision: 12.2.2016

Labh Singh

---Appellant

versus

Surinder Mohan

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. R.S.Pandher, Advocate
for the appellant

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

CM No. 1770-C of 2016

Allowed as prayed for.

Annexure P-2 (Colly) is taken on record.

RSA No. 467 of 2016

The present appeal has been directed against the consistent findings recorded by the courts below whereby the suit filed by the respondent for recovery of Rs. 70,000/- has been decreed only to the extent of Rs. 45, 172/- with interest at the rate of 12% per annum with effect from 25.10.2001 till decision of the suit and interest at the rate of 6% per annum on the principal amount from the date of decree till realization.

Counsel for the appellant would contend that as there was a relationship of customer and commission agent between the appellant and the respondent respectively, the respondent created documents by taking advantage of vulnerable position of the appellant. It is further argued that the appellant is a poor farmer and he is ready to deposit the principal amount and the notice may be issued to explore possibility of an amicable settlement.

I have heard counsel for the appellant, perused the records and find no merit in the appeal.

The submissions made by counsel for the appellant neither raise any substantial question of law nor sufficient to point out any error much less illegality in the findings recorded by the trial court, affirmed in appeal.

The claim of the respondent is based upon a promissory note and receipt in respect of an amount of Rs. 1,20,000/- and the suit for recovery was filed for a sum of Rs. 70,000/- (Rs. 46371 as principal amount and Rs. 23,629/- as interest after adjusting the price of paddy crop worth Rs.63058.48 paisa on 24.10.2001 and Rs. 14,169.84 paisa on 20.10.2001 totalling Rs.77,228.32 paisa).

Counsel for the appellant has not pointed out that the judgments passed by the courts below are either the result of misreading of evidence or ignoring any material evidence on record. The mere fact that the appellant was selling his crops at the commission agency of the respondent is not sufficient to hold that the documents relied upon by the respondent are either not correct or prepared fraudulently. On the contrary,

claim of the respondent is based upon a promissory note and there is a presumption in favour of the respondent that the amount mentioned therein has been paid to the executant, the appellant is under an obligation to rebut that presumption by producing materials on record. The said presumption cannot be rebutted on the basis of surmises and conjectures merely because the appellant was a customer selling his agriculture produce at the shop of the respondent.

In view of what has been discussed hereinabove, finding no merit, the appeal is dismissed in limine.

(Rekha Mittal)
Judge

12.2.2016

PARAMJIT